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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,482	03/02/2004	Lester R. Greer JR.	P214529	1890

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SCHACHT LAW OFFICE, INC.
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EXAMINER

LAVINDER, JACK W

ART UNIT	PAPER NUMBER
3677	

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/791,482

Applicant(s)

GREER ET AL.

Examiner

Jack W. Lavinder

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14 is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4 and 7-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Hawie, 3049782.

Regarding claim 1, Hawie discloses a resilient (see figure 5, i.e., the finger member 15 moves from an opening dotted line position to a closed solid line position) clip member (figure 1) defining

- a hinge (13, figure 5) with first (14) and second (15) finger portions extending therefrom
- a ratchet portion (29) formed on at least one of the finger portions
- a collar member (12) having
 - a latch portion (28)
 - a lever portion (12a)
 - a latch opening (opening which allows the latch element 28 to extend through the outer circumferential wall of the sleeve, see figure 1)
 - a housing interior, i.e., the interior portion, which receives the finger portions (14, 15)

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The rest of the language in claim 1 is directed to the functions of the different parts of the clip, hinge, ratchet portion and collar member. All of these functions can be performed by the structure disclosed in Hawie's clip.

Hawie's clip is made from a resilient metal material (col. 1, line 62 and column 2, lines 50-55). The claim states the function of applying a force to the lever portion. This force causes the collar member to deform from a normally engaged configuration to a disengaged configuration. When force, in Hawie, is applied to the lever portion (12a), the sleeve starts sliding to the right in figure 5. As it slides to the right the tongue portion of the collar member is deformed in the upward direction to disengage from the hole 29.

The claim also states that the collar member has two positions, which correspond to an open and closed position of the clip member. Hawie's clip performs these functions in the same way as applicant's invention (see figure 5).

The claim states in the second to last paragraph: "the latch portion engages the ratchet portion to allow movement of the collar member towards the second position and inhibit movement of the collar member towards the first position". Hawie's device is capable of and does perform this function. The tongue/latch (28) engages the ratchet portion (29) allowing movement of the collar member towards the second closed position, i.e., as seen from the drawings there is space between the latch and the hole that would allow the collar to move toward the closed position even after the latch is engaged within the hole. Also, the natural resiliency of the tongue/latch and collar inhibits the movement of the collar toward the first opened position when the tongue is

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engaged in the hole, i.e., a force is required to be applied to the lever (12a) in order to move the collar toward the first open position.

The claim states in the last paragraph that the collar member, when in the disengaged configuration, may move between the first and second positions. Clearly, once the tongue is disengaged from the hole (29), the collar can be freely moved along and down the finger portion 15 and along and up finger portion 15.

Regarding claim 2, Hawie discloses a collar having a belt portion, i.e., the circumferential sidewall surrounding the finger portions, and first and second gripping portions (16, 18).

Regarding claim 3, Hawie discloses a clip having a line notch, i.e., the notch/gap between the first gripping teeth (17) and the second gripping teeth (19) as seen in figure 5. Or a different interpretation would be a line notch formed between the second gripping teeth (19) and the ramp portion starting at 25 of finger portion 15. That whole area would be considered a line notch. Or a third interpretation would be a line notch defined between the top finger portion 15 and the bottom finger portion 14 at 25.

Regarding claim 4, Hawie discloses first and second gripping portions (16, 18, figure 4) wherein at least one of the gripping portions (18) defines a notch as stated in the previous paragraph. Hawie also discloses a line tooth, i.e., the teeth 19 are in a line projecting from the finger 15, which is capable of engaging the edge line of a sheet of material (figure 5).

Regarding claim 7, Hawie discloses first and second gripping portions having first and second sets of curved gripping teeth (17, 19) capable of gripping a sheet material.

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Regarding claims 8-10, 12 and 13, Hawie discloses that the clip is used for gripping portions of clothes together (col. 1, lines 13-16). Clothes are considered to be sheet materials. Assuming that applicant doesn't agree that clothing can be considered to be sheet materials, the recitation in the preamble "of gripping sheet materials" is considered merely an intended use of the method steps. There is nothing in the body of the claim that refers back to the preamble intended use recitation for meaning. The preamble does not breathe life and meaning into the claim. Thus, Hawie's clip as discussed above, meets all the method limitations outlined in the claim.

Regarding claim 11, Hawie discloses a clip having a line notch, i.e., the notch/gap between the first gripping teeth (17) and the second gripping teeth (19) as seen in figure 5. Or a different interpretation would be a line notch formed between the second gripping teeth (19) and the ramp portion starting at 25 of finger portion 15. That whole area would be considered a line notch. Or a third interpretation would be a line notch defined between the top finger portion 15 and the bottom finger portion 14 at 25.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hawie, 3049782 in view of Garrison, 4194274.

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Hawie discloses first and second gripping portions (16, 18) with first and second sets of gripping teeth (17, 19) with first and second slanted surfaces with tooth points--albeit rounded tooth points. Hawie fails to disclose the capability of at least some of the tooth points engaging the slanted surfaces of the teeth of the other teeth.

Garrison discloses a gripping arrangement wherein some of the tooth points are capable of engaging some of the slanted surfaces of the other teeth (figure 6).

It would have been obvious to a person having ordinary skill in the art to have provided Hawie with the gripping arrangement disclosed in Garrison in order to increase the holding ability of the clamp without snagging or damaging the article being gripped.

5. Claims 1-4 and 7-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawie in view of Cameron, 5388313.

Assuming that the term "ratchet portion" is intended to mean a ratchet, the following rejections apply.

Hawie is applied as set forth above. Hawie fails to disclose a ratchet formed on at least one of the first and second finger portions.

Cameron discloses that it is well known to a person with skill in the art to use a ratchet on a finger portion of a clip assembly in order to incrementally increase the holding strength of the clip while preventing the clip from releasing (figures 2-6).

It would have been obvious to a person having ordinary skill in the art to modify the smooth locking type actuation mechanism of Hawie's clip with the ratchet type of actuation mechanism taught by Cameron to prevent the releasing of the clip via a

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ratchet mechanism until the proper strength is reached when assembling the clip to the article being gripped.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hawie in view of Cameron, 5388313 as applied to claims 1-4, 7-13 above, and further in view of Garrison.

Hawie in view of Cameron fails to disclose the capability of at least some of the tooth points engaging the slanted surfaces of the teeth of the other teeth.

Garrison discloses a gripping arrangement wherein some of the tooth points are capable of engaging some of the slanted surfaces of the other teeth (figure 6).

It would have been obvious to a person having ordinary skill in the art to have provided Hawie with the gripping arrangement disclosed in Garrison in order to increase the holding ability of the clamp without snagging or damaging the article being gripped.

Allowable Subject Matter

7. Claim 14 has been allowed.

Response to Arguments

8. Applicant's arguments filed 5/23/05 have been fully considered but they are not persuasive. The applicant argues that Hawie fails to disclose a ratchet portion. The applicant cites a dictionary definition of a ratchet but falls short of defining what is meant by the claimed term "ratchet portion." The examiner has interpreted the term "ratchet portion" to mean a portion of a ratchet, i.e., a tooth or a groove would be a portion of a ratchet. Hawie clearly discloses a tooth and a groove, which meets the broadest reasonable interpretation of a "ratchet portion." If applicant wishes to have the claims


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cover a ratchet. They are invited to change "ratchet portion" to "ratchet." This change, however, would not render the claims patentable (see 103 rejection based on Hawie in view of Cameron).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack W. Lavinder whose telephone number is 571-272-7119. The examiner can normally be reached on Mon-Friday, 9-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jack W Lavinder
Primary Examiner
Art Unit 3677

7/23/05